

State of New Hampshire
Public Employee Labor Relations Board

AFSCME Council 93, Local 534

v.

Town of Moultonborough

Case No. G-0270-2
Decision No. 2018-088

Pre-Hearing Memorandum and Order

Date of Conference: June 27, 2018

Appearances: Sean Cronin, Esq., for the Complainant
Mark T. Broth, Esq., for the Respondent

Background:

On May 14, 2018, the AFSCME Council 93, Local 534 (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Town of Moultonborough (Town) had violated RSA 273-A:5, I (a), (c), and (d) when it threatened an employee in the proposed bargaining unit with a termination if he testified at the unit determination hearing before the PELRB. The Union claims that, as a result of the Town's threat of retaliation, the employee, who was a Union's witness, refused to attend the hearing.¹ The Union requests that the PELRB find that the Town coerced or otherwise interfered with its employee in the exercise of the rights conferred by RSA 273-A, interfered with the formation or

¹ The Union filed a petition for certification on March 7, 2018 and the Town objected to this petition. The hearing on the Town's objection was originally scheduled for May 1, 2018 but on the day of the hearing, the Union requested a continuance on the ground that the Union's witnesses failed to appear due to the threat of retaliation by the Town. The Union's motion to continue was granted. See PELRB Decision No. 2018-050. The hearing on petition for certification was eventually held on June 22, 2018 and the subject employee testified at that hearing.

administration of the bargaining unit, and discriminated against the employee for the purpose of discouraging membership in the employee organization and because he had given information and planned to provide testimony. The Union also requests that the PELRB order the Town to cease and desist from interfering with its employee in the exercise of the rights under RSA 273-A, to publicly post the PELRB's findings for 30 days, and to make the Union whole for all costs and expenses incurred to pursue the prohibited practice charge.

The Town denies that anything was said to the subject employee that could reasonably have been construed as threatening or intimidating.

Issues for Determination by the Board.

Whether the Town violated RSA 273-A:5, I (a), (c), and/or (d) as charged by the Union.

Witnesses and Exhibits

As outlined in the parties' Pre-Hearing Worksheets. Both parties reserve the right to amend their lists of witnesses and exhibits in conformity with Pub 203.01. It is understood that each party may rely on the representations of the other party that witnesses and exhibits appearing on their respective lists will be available at the hearing.

Decision

1. "Parties" means the Union, the Town or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. At the pre-hearing conference, the Town has provided a settlement proposal to the Union. As discussed at the conference, the Union shall submit a response to this proposal no later than **June 29, 2018**.

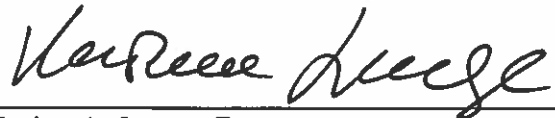
3. The parties shall exchange and file a statement of stipulated facts and their final witness and exhibit lists no later than **July 2, 2018**.
4. The requirement that the parties file copies of proposed exhibits prior to the date of hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

Hearing

Unless otherwise ordered as a result of the filing of any subsequent motion, the hearing in this case will be held on **July 11, 2018 @ 8:30 a.m.**, at the offices of the PELRB in Concord. The time set aside for this hearing is 3 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least ten days prior to the date of hearing.

So ordered.

Date: 6/27/2018



Karina A. Lange, Esq.
Staff Counsel/Hearing Officer

Distribution: Sean Cronin, Esq.
Mark T. Broth, Esq.

